

LABOUR DEPARTMENT

The 11th June, 1976

No. 3017-4Lab-76/16546.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak).

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 22 of 1975

between

SHRI MAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S SUPREME STEEL ROLLING AND ALLIED INDUSTRIES, BAHADURGARH (ROHTAK).

AWARD

The Governor of Haryana,—*vide* his order No. ID/RK/209-M-75 referred the following dispute between Shri Man Singh, workman and the management of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak), for adjudication by this court, in exercise of the powers conferred on him by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Man Singh was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* claim statement filed by him that his services were terminated by the management illegally with effect from 7th October, 1974, without assigning any reason and that he was entitled to reinstatement in the job held by him on wages of Rs. 150 per mensem, on the date of termination of his services.

The management while denying the allegations made by the workman pleaded that the later absented himself from duty with effect from 8th October, 1974, without their prior permission, and that on receipt of a letter by him relating to the demand of his reinstatement they duly replied him that his name had never been struck off the rolls and that his services had never been terminated as alleged by him. They added that the workman reported for duty on 17th October, 1974 and there being a layoff in the factory on that date he was asked to come on 18th October, 1974, when he did not come and remained absent thereafter and sent them a letter that he was not allowed to join duty on 17th October, 1974, and this letter was replied on 21st October, 1974. The management finally set up a case that they waited for the workman till 20th December, 1974, when they removed his name from the rolls of their employees on account of his long absence. The workman according to the management abandoned his job of his own accord.

The workman controverted the pleas of the management and reiterated the allegations made by him in the claim statement. He even denied the plea of the management that there was a layoff in the factory on 17th October, 1974.

The following issues were thus framed on pleas of the parties,—*vide* order dated 22nd October, 1975 :—

- (1) Whether workman voluntarily absented from duty from 8th October, 1974 to 16th October, 1974 and thereafter from 18th October, 1974?
- (2) In case of non-proof of issue No. 1, whether the termination of services of the workman was justified and in order, If not, to what relief is he entitled?

The management examined Shri Harbans Lal, their manager and led no other evidence. Shri Harbans Lal deposed with reference to the attendance register of the employees for the period from 1st April, 1974 to 31st March, 1975, that the workman absented himself from duty on 8th October, 1974 and continued to do so thereafter till 31st October, 1974, with the result that his name was not carried over to the next month. He admitted in cross-examination that the attendance register brought by him was unpagged and loosely stitched and that some of the leaves were unstitched and could be taken out. It would thus appear that the register of attendance of the employees relied on by the management to prove the absence of the workman was not an authentic document. It would further be important to note that this register was produced for the first time by Shri Harbans Lal on 4th February, 1974, and was never relied on by the management prior thereto. This document is liable to be ignored from consideration on this ground as well.

Taking the statement of Shri Harbans Lal, this absence of any corroborative evidence either oral or documentary is in my opinion not sufficient to establish the case of the management covered by issue No. 1 particularly when it is rebutted by the workman himself with a statement that he was turned out of service by the management on 7th October, 1974. The letters Ex. M.1., M.3, W.1 and W.2 exchanged between the parties, the management emphasising that the workman failed to return to duty and the later asserting that the former declined to assign him work, do not in any way advance the case of the management. No reasons were given as to why did the management not examine any co-workman or other employee to prove the absence of the workman from duty. Such an important evidence being with-held led to a presumption against the management that if examined they would have not supported their case. Even otherwise some corroborative evidence was essential to be brought on record to strengthen the evidence of Shri Harbans Lal and in absence of the same the statement of the later alone cannot be relied upon.

I, thus, placing no reliance on the statement of Shri Harbans Lal and the register brought by him decide issue No. 1 against the management. In consequence I hold that the management terminated the services of the workman without justification. I accordingly decide the first part of issue No. 2 against the management.

The management however at the stage of evidence relied upon letter Ex. M. 6 and a voucher Ex. M. 7, both purporting to bear the signatures of Man Singh, workman, in respect of an amicable settlement arrived at between the parties on 3rd January, 1976, whereby the workman was alleged to have received Rs 250 in full and final satisfaction of all his claims against the management including that of his reinstatement.

I have carefully considered these documents Ex. M. 6 is a letter dated 3rd January, 1976, bearing an acknowledgement on behalf of the workman that he had received a sum of Rs 250 in full and final settlement of all his claims including the one relating to the pending reference and that he withdrew the demand leading to the reference. Ex. M. 7 is a voucher relating to the payment to the workman of a sum of Rs 250 and on 3rd January, 1976, under his signatures. The workman appearing as his own witness denied the genuineness of these documents as also his signatures appearing on each one of them at mark 'A'. It would be however interesting to note that he even went to the extent of denying his signatures on the authority letter Ex. M. 8 authorising Shri Rajinder Singh Dahiya to appear and prosecute his demand. He made an evasive reply while stating that he could not say if the notice of demand Ex. M. 10 bore his signatures at mark 'A' or not. Such a stand on his part, relating to denial by him of his signatures even on the admitted documents exposed him to be a liar having no respect for the oath administered to him at the time of his entering the witness box that he shall state the whole truth and nothing but truth. In view of his denial of the admitted facts, his statement that the documents Ex. M. 6 and M. 7 did not bear his signatures can hardly be relied upon. Above all on a careful perusal and comparison of the disputed signatures appearing on Ex. M. 6 and M. 7 and admitted signatures on the notice of demand Ex. M. 10 and the authority letter Ex. M. 8, the same appear to be similar even to a naked eye. The statement of the workman having been disbelieved to this extent, I rely upon the statement of Shri Harbans Lal that both the documents Ex. M. 6 and M. 7 were signed by the workman. In absence of a plea that his signatures were obtained by deceit or under undue influence or coercion, the documents have to be held as having been voluntarily signed by the workman after fully understanding their meaning and import and receipt of Rs 250 by him in full and final settlement of his claims including the one relating to the pending reference. I as such hold that the workman is not entitled to any relief and is debarred legally from seeking any relief relating to this reference, under the documents M. 6 and M. 7.

I, thus, answer the reference while returning the award in terms of the findings made by me.

Dated 18th March, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 748, dated the 19th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 3012-4Lab-76/16548.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s. Supreme Steel Rolling & Allied Industries, Bahadurgarh:—

893

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 40 of 1973

Between

Shri Rakhal Dass workman and the management of M/s Supreme Steel Rolling & Allied Industries, Bahadurgarh.

AWARD

By order No. ID/RK/209-D-72/19824, dated the 13th June, 1973, the Governor of Haryana, referred the following dispute between the management of M/s Supreme Steel Rolling & Allied Industries, Bahadurgarh and its workman Shri Rakhal Dass to this Labour Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Rakhal Dass was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings:

The workman alleged,—*vide* claim statement filed by him that the management on 20th October, 1972, without assigning any reason and serving any charge sheet on him and holding an domestic enquiry terminated his services by way of shutting his entry in the factory premises and that he was as such entitled to reinstatement on the job of a Girderman held by him on wages of Rs 150 per mensem for the last six months.

The management while denying the allegation of the workman pleaded that the later had worked only for 14 days during the period from 1st October, 1972 to 20th October, 1972, purely on casual basis on daily wages and that they as such terminated his services under a right available to them at law. They raised a preliminary objection that the reference was bad in law on account of failure of the workman to raise a demand directly on them and their rejection of the same by them before the matter was taken to the Conciliation Officer.

The workman controverted the pleas of the management and reiterated the allegations made in the claim statement,—*vide* rejoinder filed by him with the result that the following issues were framed on pleas of the parties,—*vide* order dated 25th January, 1974 :—

- (1) Whether the present reference is bad and without jurisdiction for the reasons given in paras Nos. 1 and 2 of the written statement of the management ?
- (2) Whether the termination of services of Shri Rakhal Dass was justified and in order ? If not, to what relief is he entitled ?

I have heard the authorised representatives for the parties with reference to the evidence led by them, I decide the issues as under :—

Issue No. 1.—I for the reasons stated by me in detail in my order dated 10th October, 1975, made in reference entitled Shri S.C. Sethi versus M/s. Kirloksar Oil Engine, Mathura Road, Faridabad, hold that it was no longer necessary for the workman to raise a demand directly on the management and for the later to reject it before the matter was taken to the Conciliation Officer in order to constitute an industrial dispute. I thus decide this issue against the management.

Issue No. 2.—This is an important issue in the case. The management in order to establish their case as covered by this issue examined their clerk Shri Harbans Lal who deposed orally without reference to any record that the workman joined their service on 3rd October, 1972 as a Girderman and worked till 30th October, 1972, purely on a temporary basis on wages of Rs 5 per day and his services had to be terminated on 20th October, 1972, for want of work in the factory. He admitted that there was no entry in the attendance register in respect of the workman being temporary. He admitted the receipt of the copy of the report of the Conciliation Officer Ex. W-2 by the management and conceded that no letter was written to the former by the later contradicting the facts stated therein. This is all the evidence led by the management to prove their case and it would appear that this is hardly sufficient to discharge the heavy burden placed on them for establishing their case, even if it were to remain un rebutted, in as much as the management can at any time arrange to examine an employee of their own to depose to the facts pleaded by them without any difficulty and such an oral statement of on their employees cannot be relied upon.

There is, however, authentic evidence on record on behalf of the workman to establish, not only that the pleas of the management remained unestablished but the same were false to their knowledge. For instance Shri Vishan Dass, an Assistant of the office of the Labour Commissioner, Haryana, examined as W.W. 1 deposed with

Reference to the file brought by him that it contained a letter of Authority dated 25th July, 1972, by workmen including Rakhal Dass workman concerned in this reference, authorising Shri R.S. Daiya, President, Bahadurgarh Potteries and General Labour Union to appear for them in the matter of general demand raised by them on 26th July, 1972, on the management. Such an authority executed as for back as on 25th July, 1972, contained in the relevant file brought from official custody has to be presumed as genuine in absence of any evidence rebutting the same. Shri Fathe Singh, Labour Inspector, examined as W.W. 2 gave out with reference to the relevant record brought by him that a complaint copy Ex. W-1 dated 13th September, 1972, had been received in the office of the Labour Inspector on 14th September, 1972, from the workman including Rakhal Dass relating to their grievance against the management about the later having not entered their names in the register of their employees. Shri Rakhal Dass workman himself corroborated his case that he had been employed on a permanent basis as a Girderman six months before termination of his services. I am thus convinced that the evidence of Vishan Dass W.W.1, Fathe Singh W.W.2, and Rakhal Dass W.W.3 proved beyond doubt that the later had been employed as a Girderman on permanent basis and the pleas of the management referred to above are false and that his services were illegally terminated on 20th October, 1972. The result is that he is entitled to be reinstated with continuity of services and full back wages. I hold accordingly and decide this issue against the management.

I answer the reference while returning the award in terms of the findings made by me.

Dated 19th March, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 743, dated the 19th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 3603-4Lab-76/16550.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Haryana Coach Body Builders, Gohana Road, Rohtak:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 132 of 1976

Between

THE WORKMEN AND THE MANAGEMENT OF M/S HARYANA COACH BODY BUILDERS,
GOHANA ROAD, ROHTAK

AWARD

By order No. ID/FD/14-K-75/51659, dated 24th July, 1975, the Governor of Haryana, referred the following dispute between the management of M/s Haryana Coach Body Builders, Gohana Road, Rohtak, and its workmen to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

- “(1) Whether the action of the management in laying off 17 workmen whose names are given in lay off notice, dated 2nd November, 1974, was justified and in order? If not, to what relief are they entitled?
- (2) Whether the retrenchment of the workmen mentioned in Annexure ‘A’ was justified and in order? If not, to what relief are they entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

One of the issues amongst other arising from a preliminary objection raised by the management relating to the legality and maintainability of the reference is as under :

- (8) Whether the demands raised by the workmen listed in Annexure ‘A’ were properly espoused by required number of workmen? If not, to what effect?

It is conceded on both sides that the reference in order to be legal and maintainable must be as a result of the espousal of the demand leading thereto by a substantial number of workmen in the service of the management on the date of the notice of demands and this substantial number should in every case be at least about 23 per cent of the number of workmen on the rolls of the management on that date. The only question requiring determination under the circumstances would obviously be as to whether the demand leading to the reference is proved to have been espoused by a substantial number of workmen or not.

The workmen in this connection examined Shri Bishan Dass, Assistant of the office of the Labour Commissioner, Haryana with reference to the record brought by him as M.W. 1 besides Shri Balwan Singh, General Secretary of the Adarsh Udyogic Karamchari Sangh, Rohtak as M.W. 2. The management did not adduce any evidence.

Shri Bishan Dass deposed that the letter of authority, Ex. M. 1 contained in the relevant file brought by him purported to have been executed by 31 workmen in favour of Shri Balwan Singh. He actually produced this letter of authority attached with the notice of demands sent by the workmen to the Conciliation Officer, and which finally led to the reference. I have carefully seen and read this letter of authority, Ex. W. 1. The signatories of this letter of authority, 31 in number, as found mentioned in this letter itself, are workmen of Haryana Coach Body Builders and Sudhir Engineering Industries, Gohana Road, Rohtak and it has not been explained as to how many of them are the workmen of Coach Body Builders, Rohtak actually impleaded as a party in the reference and how many of them are the members of Sudhir Engineering Industries, Rohtak not a party in the reference. The nature discrepancy and details of demands for which this letter of authority was executed by 31 workmen of Haryana Coach Body Builders, Rohtak and Sudhir Engineering Industries, Rohtak are not found specifically stated therein and what is found mentioned is only that the letter of authority was executed by these workmen for pursuing their demand and negotiating the matter with the management and the authorities concerned of the Haryana Government. Such a letter of authority can by no stretch of imagination be said to be on behalf of a substantial number of workmen of Haryana Coach Body Builders, Rohtak, the management impleaded as a party in the reference or in respect of the disputes actually referred, particularly when the workmen failed to bring on record the total number of workmen on the rolls of the management on 6th January, 1975 the date of the notice of demand and the number of the workmen of Haryana Coach Body Builders who actually signed the letter of authority, Ex. W-1.

It is further significant to note the statement of Shri Balwan Singh, M.W. 2 that he was elected as the General Secretary of the union only by the workmen of Haryana Coach Body Builders, Rohtak and that the workmen of Sudhir Engineering Industry were not present in the meeting when he was so elected and that they did not give him any authority to represent their case. Such a statement is obviously inconsistent and contradictory to the actual averment found stated to the contrary in the letter of authority, Ex. W-1 itself. When confronted with this situation, Shri Balwan Singh who actually raised the demand explained though incorrectly that Sudhir Engineering Industry Gohana and Haryana Coach Body Builder had one management. He admitted that he did not bring with him the record relating to the proceedings of the meeting held in October, 1974 wherein he was elected as the General Secretary. The fact that such an important evidence was withheld, led to a presumption, that no proper meeting was convened and Shri Balwan Singh was not properly elected as the General Secretary of the union and the demand raised by him can not be said to be on behalf of the workmen of the union.

Considered from any angle that the demands leading to the reference are not established on record to have been properly espoused by required number of workmen. I, therefore, decide the aforesaid issues against the workmen and hold that the reference made to this Tribunal on a demand not proved to have been espoused by a substantial number of workmen is bad in law and none of the workmen is entitled to any relief on this short ground. I thus answer the reference while returning the award in these terms.

MOHAN LAL JAIN,

Dated 6th April, 1976.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 432, dated 7th April, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under-section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Dated 7th April, 1976.

P. P. CAPRIHAN,
Commissioner and Secy.